APPENDIX B

Constitutional, Statute and Treaty Provisions

Relevant Portions of the Fifth Amendment to the Constitution of the United States

"No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Excerpts From the Export Control Act of 1949 60 U.S.C.A. App. §§ 2022-23

"§ 2022. Congressional declaration of policy

"The Congress declares that it is the policy of the United States to use export controls to the extent necessary (a) to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand; (b) to further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security. Feb. 26, 1949, c. 11, § 2, 63 Stat. 7."

"§ 2023. Authority to effectuate policies; delegation; limitations

"(a) To effectuate the policies set forth in section 2 hereof [section 2022 of this Appendix], the President may prohibit or curtail the exportation from the United States, its Territories, and possessions, of any articles, materials, or supplies, including technical data, except under rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act [sections 2021-2032 of this Appendix], such rules and regulations may apply to the

financing, transporting, and other servicing of exports and the participation therein by any person."

Excerpts From the Foreign Assistance Act of 1961
22 U.S.C.A. § 2370(a)(1) (1963)

"§ 2370. Prohibitions against furnishing assistance—Cuba; embargo on all trade.

"(a)(1) No assistance shall be furnished under this chapter to the present government of Cuba; nor shall any such assistance be furnished to any country which furnishes assistance to the president government of Cuba unless the President determines that such assistance is in the national interest of the United States. As an additional means of implementing and carrying into effect the policy of the preceding sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba."

Presidential Proclamation No. 3447
Feb. 3, 1962, 27 FR 1085

EMBARGO ON TRADE WITH CUBA

WHEREAS the Eighth Meeting of Consultation of Ministers of Foreign Affairs, Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, in its Final Act resolved that the present Government of Cuba in incompatible with the principles and objectives of the Inter-American system; and, in light of the subversive offensive of Sino-Soviet Communism with which the Government of Cuba is publicly aligned, urged the member to take those steps that they may consider appropriate for their individual and collective self defense;

WHEREAS the Congress of the United States, in section 620(a) of the Foreign Assistance Act of 1961 (75 Stat.

445), as amended [subsection (a) of this section], has authorized the President to establish and maintain an embargo upon all trade between the United States and Cuba; and

WHEREAS the United States, in accordance with its international obligations, is prepared to take all necessary actions to promote national and hemispheric security by isolating the present Government of Cuba and thereby reducing the threat posed by its alignment with the communist powers:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under the authority of section 620(a) of the Foreign Assistance Act of 1961 (75 Sts. 445), as amended [subsection (a) of this section], do

1. Hereby proclaim an embargo upon trade between the United States and Cuba in accordance with paragraphs 2 and 3 of this proclamation.

2. Hereby prohibit, effective 12:01 A.M. Eastern Standard Time, February 7, 1962, the importation into the United States of all goods of Cuban origin and all goods imported from or through Cuba; and I hereby authorize and direct the Secretary of the Treasury to carry out such prohibition to make such exceptions thereto, by license or otherwise, as he determines to be consistent with the effective operation of the embargo hereby proclaimed, and to promulgate such rules and regulations as may be necessary to perform such functions.

AND FURTHER, I do hereby direct the Secretary of Commerce, under the provisions of the Export Control Act of 1949, as amended (50 U.S.C. App. 2021-2032) [sections 2021-2032 of Appendix to Title 40, War and National Defense], to continue to carry out the prohibition of all exports from the United States to Cuba, and I hereby authorize him, under that Act, to continue, make, modify, or revoke exceptions from such prohibition.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this third day of February, in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-sixth.

[SEAL] JOHN F. KENNEDY

Agreement with Cuba Establishing the Guantanamo Naval Base

Treaty Series 418

"AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CUBA FOR THE LEASE (SUBJECT TO TERMS TO BE AGREED UPON BY THE TWO GOVERNMENTS) TO THE UNITED STATES OF LANDS IN CUBA FOR COALING AND NAVAL STATIONS.

"The United States of America and the Republic of Cuba, being desirous to execute fully the provisions of Article VII of the Act of Congress approved March second, 1901, and of Article VII of the Appendix to the Constitution of the Republic of Cuba promulgated on the 20th of May, 1902, which provide:

" 'Article VII. To enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the Cuban Government will sell or lease to the United States the lands necessary for coaling or naval stations, at certain specified points, to be agreed upon with the President of the United States.'

have reached an agreement to that end, as follows:

"ARTICLE I

The Republic of Cuba hereby leases to the United States, for the time required for the purposes of coaling and naval stations, the following described areas of land and water situated in the Island of Cuba:

• • •

[Description of areas of land and water omitted.]

"ARTICLE II

The grant of the foregoing Article shall include the right to use and occupy the waters adjacent to said areas of land and water, and to improve and deepen the entrances thereto and the anchorages therein, and generally to do any and all things necessary to fit the premises for use as coaling or naval stations only, and for no other purpose.

Vessels engaged in the Cuban trade shall have free passage through the waters included within this grant.

"ARTICLE III

While on the one hand the United States recognizes the continuance of the ultimate sovereignty of the Republic of Cuba over and above described areas of land and water, on the other hand the Republic of Cuba consents that during the period of the occupation by the United States of said areas under the terms of this agreement the United States shall exercise complete jurisdiction and control over and within said areas with the right to acquire (under conditions to be hereafter agreed upon by the two Governments) for the public purposes of the United States any land or other property therein by purchase or by exercise of eminent domain with full compensation to the owners thereof.

• • •

"The United States of America and the Republic of Cuba, being desirous to conclude the conditions of the lease of areas of land and water for the establishment of naval or coaling stations in Guantanamo and Bahia Honda the Republic of Cuba made to the United States by the Agreement of February 16/23, 1903, in fulfillment of the provisions of Article Seven of the Constitutional Appendix of the Republic of Cuba, have appointed their Plenipotentiaries to that end.

"The President of the United States of America, HERBERT G. SQUIERS, Envoy Extraordinary and Minister Plenipotentiary in Havana.

"And the President of the Republic of Cuba, JOSE M. GARCIA MONTES, Secretary of Finance, and acting Secretary of State and Justice, who, after communicating to each other their respective full powers, found to be in due form, have agreed upon the following articles:

* * *

"ARTICLE III

The United States of America agrees that no person, partnership, or corporation shall be permitted to establish or maintain a commercial, industrial or other enterprise within said areas."

Excerpts From Current Export Bulletin Number 840, Dated October 19, 1960

"SUBJECT: Exports to Cuba

"PURPOSE AND EFFECT:

"The Export Regulations issued by the Department of Commerce previously provided that exports to Cuba could be made under the same regulations as

exports to other Western Hemisphere countries, with the exception of certain limitations on the use of General Licenses GRO and GLV for exports of jeeps, trucks, and certain parts therefor. In view of the deterioration of relationships between Cuba and the United States the Export Regulations have been revised to require validated licenses for shipments of most commodities and technical data to that destination. Certain foods (other than agricultural products eligible for subsidy payments or stocked by the Commodity Credit Corporation), medicines, and medical supplies are the only commodities to remain under general license.

"In addition, for those exports which require a validated license, it will be the general policy of the Bureau of Foreign Commerce to reject all export license applications for any commodities except certain foodstuffs which are neither subsidized nor obtained didirectly or indirectly from the Commodity Credit Corporation stocks."